

ORIGINAL

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AT SAVANNAH

FORM FOR USE IN APPLICATIONS
FOR HABEAS CORPUS UNDER 28 U.S.C. Section 2254

Name

William Holmes

Prison Number

MEN'S STATE PRISON P.O. BOX 396

HARDWICK, GA 31037

Place of Confinement

United States District Court Southern

District of SAVANNAH

Case No. CV 499 - 168

(To be supplied by Clerk of U. S. District Court)

William Holmes

(Full Name) (Include name under which you were convicted)

v.

William Beale-Warden

(Name of Warden, Superintendent, Jailer, or authorized person having custody of petitioner)

and

THE ATTORNEY GENERAL OF THE STATE OF Thubert Baker

, ADDITIONAL RESPONDENT.

(If petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. Section 2255, in the federal court which entered the judgment.)

U. S. DISTRICT COURT
Southern District of Ga.
Filed in Office

11:38 AM

4/1 1999

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN
STATE CUSTODY

INSTRUCTIONS—READ CAREFULLY

- (1) This petition must be legibly handwritten or typewritten, and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must

By Clerk

3/15/99
NUNC PRO TUNC DATE

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be answered concisely in the proper space on the form.

- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution. If your prison account exceeds \$ _____ you must pay the filing fee as required by the rule of the district court.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court whose address is Post Office Box 1130, Augusta, Georgia, 30903.
- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

PETITION

1. Name and location of court which entered the judgment of LIBERTY conviction under attack COUNTY SUPERIOR COURT - ATLANTIC
Judge / CIRCUIT

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2. Date of judgment of conviction FEBRUARY 10, 1995

3. Length of sentence LIFE IMPRISONMENT

4. Nature of offense involved (all counts) GEORGIA CONTROL
SUBSTANCES ACT.

5. What was your plea? (Check one)

(a) Not guilty ()

(b) Guilty ()

(c) Nolo contendere ()

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. Kind of trial: (Check one)

(a) Jury ()

(b) Judge only ()

7. Did you testify at the trial? Yes () No ()

8. Did you appeal from the judgment of conviction? Yes () No ()

9. If you did appeal, answer the following:

(a) Name of court Baldwin County SUPERIOR COURT CASE #96CV33213

(b) Result AFFIRMED ON HABEAS CORPUS

(c) Date of result JAN. 8, 1997

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes () No ()

11. If your answer to 10 was "yes", give the following information:

(a) (1) Name of court _____

(2) Nature of proceeding SEE ABOVE

(3) Grounds raised _____

SOME

SEE ATTACHED PETITION

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(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No ()

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____ SEE ABOVE

(2) Nature of proceeding _____

(3) Grounds raised _____

_____ ; SAME

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No ()

(5) Result _____

(6) Date of result _____

(c) As to any third petition, application or motion, give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

_____ ; SAME

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No ()

(5) Result _____

(6) Date of result _____

(d) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion:

(1) First petition, etc. Yes () No ()

(2) Second petition, etc. Yes () No ()

(3) Third petition, etc. Yes () No ()

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

AT PRESENT

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12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted all your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

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A. Ground one: _____

Supporting FACTS (tell your story briefly without citing cases or law): _____

' SEE ELABORATE PETITION

B. Ground two: _____

Supporting FACTS (tell your story briefly without citing cases or law): _____

X

C. Ground three: _____

Supporting FACTS (tell your story briefly without citing cases or law): _____

X

D. Ground four: _____

Supporting FACTS (tell your story briefly without citing cases or law): _____

SEE PETITION

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13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them:

LISTED ON PETITION

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes () No ()
15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

- (a) At preliminary hearing Charles P. Rose, JR.
P.O. Box 469 Hedgesville, WV 26319
- (b) At arraignment and plea SAME
- (c) At trial SAME
- (d) At sentencing SAME
- (e) On appeal SAME
- (f) In any post-conviction proceeding SAME
- (g) On appeal from any adverse ruling in a post-conviction proceeding SAME

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
Yes (✓) No ()

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes () No (✓)

- (a) If so, give name and location of court which imposed sentence to be served in the future:

N/A

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

William Holmes,
PETITIONER,

vs.
William Boone, et al.

HABEAS CORPUS
28 U.S.C. § 2254

----- Respondent -----

PETITION

The Petitioner William Holmes appeal for habeas corpus for relief from a life sentence imposed on February 10, 1995, after a jury trial in the Superior Court of Liberty County.

- ① PETITIONER WAS DENIED A RIGHT TO A SPEEDY TRIAL.
- ② THE PETITIONER WAS NOT PROPERLY INFORMED OF ACCUSATIONS AGAINST HIM.
- ③ THE PETITIONER WAS NOT INFORMED OF WITNESSES WHO WOULD HAVE TESTIFIED AGAINST HIM. T-23
- ④ THE CONVICTION OF PETITIONER FOR A SENTENCE TO LIFE IMPRISONMENT WAS NOT SET OUT IN THE INDICTMENT AS REQUIRED AND PROVIDED UNDER § 17-10-2, WHICH PROVES ONLY SUCH EVIDENCE IN AGGRAVATION AS THE STATE HAS MADE KNOWN TO THE DEFENDANT PRIOR TO TRIAL. 16-13-30-1.
- ⑤ THE PROSECUTOR BROUGHT PETITIONER CHARACTER INTO EVIDENCE DESPITE HIS ATTORNEY COUNSELLED PETITIONER NOT TO TESTIFY.
- ⑥ PETITIONER INFFECTIVE ATTORNEY MADE NO OBJECTION TO DEFECTIVE

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- (b) And give date and length of sentence to be served in the future: N/A
- (c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes () No ()

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on 2/1/99
(date)

William Holmes
Signature of Petitioner

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Woodard submitting and testifying pre-judice information he obtained AFTER PETITIONER'S INDICTMENT HE ENTRAPPED, ENCOURAGED AND SOLICITED INFORMATION FROM PETITIONER ABOUT OTHER DRUG DEALERS THAT INCRIMINATED PETITIONER SO SEVERE HE WAS NOT ABLE TO RECEIVE A FAIR AND IMPARTIAL TRIAL. T-4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.

- (7) PETITIONER IS DIABETIC, WITH HEART, STOMACH AND OTHER DEBILITATION ILLNESSES WHERE FOR 7 DAYS OF CONFINEMENT IN JAIL HE WAS DENIED MEDICATION.
- (8) THE PETITIONER WAS HOSPITALIZED FOR THE FORESAID MEDICAL NEGLECTIONS AND RELEASED 11 ON THE DAY OF TRIAL. EXHIBIT "A"
- (9) PETITIONER WAS RELEASED FROM THE HOSPITAL AND WITHIN HOURS WAS MADE TO GO TO TRIAL UNDER MEDICATION AND WAS UNABLE TO UNDERSTAND AND ASSIST HIS INEFFECTIVE ATTORNEY IN THE CHARGES AND TRIAL PROCEDURES. EXHIBIT "B".
- (10) PETITIONER ATTORNEY WAS INEFFECTIVE AND DID NOT REQUEST CONTINUANCE OF THE TRIAL.
- (11) THE INEFFECTIVE ATTORNEY DID NOT FILE MOTIONS TO SUPPRESS THE ILLEGAL OBTAINED EVIDENCE.
- (12) THE INEFFECTIVE ATTORNEY SHOULD HAVE Sought DISMISSAL OF THE CHARGES ESPECIALLY WHEN THE JUDGE WAS DOUBTFUL THE COURT HAD A CASE AND HE NEEDED HELP. T-53.
- (13) PETITIONER COUNSEL WAS INEFFECTIVE IN FAILING TO CHALLENGE THE STATES' FAILURE TO CALL THE POLICE INFORMANT AS A WITNESS.
- (14) PETITIONER COUNSEL FAILED TO FILE MOTION TO SUPPRESS THE INDICTMENT
- (15) PETITIONER ATTORNEY FAILED TO REQUEST JURY INSTRUCTIONS REGARDING PETITIONER'S PRIVILEGE AGAINST SELF INCRIMINATION
- (16) PETITIONER ATTORNEY DID NOT MAKE OBJECTIONS TO EVIDENCE THAT VIOLATED PETITIONER FOURTEENTH AND SIXTH AMENDMENTS AND LAWS OF THE STATE OF GEORGIA.
- (17) PETITIONER ATTORNEY WAS INEFFECTIVE IN FAILURE TO MOVE FOR A DIRECT VERDICT.

- (18) PETITIONER ATTORNEY FAILED TO OBJECT TO WITNESS INCORRECT AND INCONSISTENT TESTIMONIAL DESCRIPTION OF PETITIONER HOME.
- (19) PETITIONER ATTORNEY FAILED TO FILE PRETRIAL MOTIONS.
- (20) PETITIONER ATTORNEY WAS INEFFECTIVE AND PROCEEDED TO TRIAL RATHER THAN REQUESTED A CONTINUANCE AFTER ORAL MOTION FOR SUPPRESSION WAS DENIED.
- (21) PETITIONER ATTORNEY WAS INEFFECTIVE TO ADVISE PETITIONER NOT TO TESTIFY AND ALLOWED PETITIONER CHARACTER TO BE BROUGHT INTO EVIDENCE.
- (22) PETITIONER ATTORNEY DID NOT PROPERLY PREPARE TO CHALLENGE CHARGES AGAINST PETITIONER AT TRIAL.
- (23) PETITIONER ATTORNEY DID NOT CHALLENGE THE ILLEGAL SEARCH OF PETITIONER HOME AND CAR BY ARRESTING OFFICERS WHO DID NOT HAVE A WARRANT AND HAD SUFFICIENT OPPORTUNITIES TO OBTAIN A WARRANT.

PETITIONER ATTORNEY INEFFECTIVENESS SEVERELY VIOLATED EVERY STANDARD OF STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 S.Ct 2052 80L.Ed. 2d 274 (1984) PROSECUTORS AND INVESTIGATORS OF THE ILLEGAL SEARCH VIOLATED STATE AND FEDERAL LAWS AGAINST SELF INCRIMINATION AND PETITIONER IS PREJUDICIALLY CONVICTED IN VIOLATIONS OF FUNDAMENTAL MISCARRIAGES OF JUSTICE. SCHLUP V. DELO, 115, S.Ct. 951, 130L.Ed. 2d, 808 (1995).

THE ARRESTING INVESTIGATION OFFICERS AND THE JUDGE DID NOT FOLLOW AND VIOLATED EVERY PROCEDURE NECESSARY TO INSURE FUNDAMENTAL FAIRNESS AT PETITIONER TRIAL League 489 U.S. AT 312, 109 S.Ct. AT 1096; CASTILLE V. PEEPLES, 489 U.S. 346, 351, 52, 109 S.Ct. 1056 1060, 103L.Ed. 2d 380 (1989); MURRAY V. CARRIER, 499 U.S. 418, 488, 106 S.Ct. 2639, 2645, 91L.Ed. 2d 397 (1996).

PETITIONER TRIAL COUNSEL FAILED TO ARGUE EFFECTIVELY AND PERSUASIVE FACTS AND ERRORS THAT BUT FOR THESE EGREGIOUS ERRORS, NO REASONABLE JURORS would have found PETITIONER guilty.

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The Brady standard state that the prosecutor must disclosed evidence that is exculpatory or impeaching showing witness lied. WHEREIN, exculpatory evidence in this case is material and "had the prosecutor disclose the information the result of the proceeding would have been differently". Brady v. Maryland, 373 U.S. 83 S.C.T. 1194, 10 L.Ed.2d 215 (1963). SEE U.S. V. BAGLEY 413 U.S. 669, 682, 103 S.C.T. 3325, 3333, 87 L. Ed. 481 (1985), SENTENCE REVERSED BECAUSE PROSECUTION FAILED TO DISCLOSE IMPEACHING EVIDENCE TWO PROSECUTION WITNESSES WERE PAID TO LIE. ID.

WHEREFORE, PETITIONER PRAY THE COURT GRANT HIM IMMEDIATE AND EXPEDITE DISCHARGE FROM ILLEGAL IMPRISONMENT.

RESPECTFULLY SUBMITTED,
THIS 12 DAY OF FEBRUARY, 1999

WILLIAM HOLMES, #F239504
MEN'S STATE PRISON
P.O. BOX 396
HARDWICK, GA. 31034

WILLIAM HOLMES
WILLIAM HOLMES
William Holmes

CERTIFICATE OF SERVICE

I do hereby certify that I this day serve the within and
foregoing Petition for HABEAS CORPUS by placing 3 copies
thereof, postage prepaid, in the United States mail, properly
addressed to:

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF SAVANNAH

SAVANNAH, GA.

This 19 day of FEBRUARY, 1999

RESEND TO:

WILLIAM HOLMES, #F 238504
MEN'S STATE PRISON
P.O. Box 396
HARDWICK, GA. 31034

PROSECUTORIAL MEMORANDUM

RE: [REDACTED] AND [REDACTED] v. [REDACTED] (Case No. [REDACTED])
[REDACTED] (Defendant) [REDACTED] (Plaintiff)

RE: [REDACTED] (Defendant) [REDACTED] (Plaintiff)
[REDACTED] (Defendant) [REDACTED] (Plaintiff)

RE: [REDACTED] (Defendant) [REDACTED] (Plaintiff)
[REDACTED] (Defendant) [REDACTED] (Plaintiff)

RE: [REDACTED] (Defendant) [REDACTED] (Plaintiff)
[REDACTED] (Defendant) [REDACTED] (Plaintiff)

RE: [REDACTED] (Defendant) [REDACTED] (Plaintiff)

Printed on: Friday, October 10, 2003

Holmes, William James, Sr. 9503200233 223

Medical Record Number: 100-000000000000000000

ADMISSION HISTORY AND PHYSICAL

Page: 2 of 3

Physical Exam:

Current: No symptoms, no complaints, no tenderness, pain or palpable mass during the initial stages of the disease.

Predominantly soft non-tender, non-pulsatile, non-adherent, painless and

non-tender nodules in the rectum. No varicosities, no palpable masses, no rectal bleeding. There are no gross neurological deficits.

The EKG shows normal sinus rhythm with no changes to suggest acute myocardial infarction. Echocardiogram shows left ventricular function of 50%, with normal LVEF. Chest X-ray, pulmonary A, SLEN 9, creatinine 4.8, complete liver.

ADMITTING DIAGNOSIS:

1. Constipation due to stroke.
2. Hypertension.
3. Insulin dependent diabetes mellitus.
4. Cigar smoker.
5. History of colostomy bypass with GE reflux.
6. History of bilateral inguinal herniorrhaphy.
7. Drug allergies: none.

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Chart Review Print

EXHIBIT "B"

Report Date: 4/1/99

Chart Review Print

L123456789 M123456789
0123456789 Patient, Smith, John, Jr. 123456789 123-123456789 555-123456789 444-123456789 222-123456789

Discharge Summary (Physician)

Event Time: Friday, 9 Mar 99 2001

Discharge Disposition:

* * * End of Report * * *

Medical Record Number: 10717

St. Luke's Hospital, St. Louis, MO

Arriving Physician: Dr. James H. Hartman, MD

PHYSICIAN ED NOTE

Arriving Physician:

Chief Complaint: Chest pain.

HISTORY OF PRESENT ILLNESS: The physician is called to prepare the emergency room regarding a substantial chest pain occurring to this male patient in his left arm. The patient relates that he has had this pain for 2 days now. The patient denies that he has had any other symptoms. He has had no pain except chest pain and the pain is constant and very sharp. The pain is not associated with nausea or vomiting. The patient does feel slightly short of breath.

PAST MEDICAL HISTORY: The physician asks about the patient's history of disease. He denies any known hypertension. The patient states that he had an elevated blood cholesterol level at one time but has since had a normal test although he has not been checked recently. He has had an episode of angina which was a substernal discomfort. He was able to follow up with the cardiologist and have a coronary angiogram which did not find any significant coronary artery disease.

SOCIAL HISTORY: The physician asks about tobacco. The patient states he has never smoked from personal choice. He does smoke marijuana occasionally.

REVIEW OF SYSTEMS: Other than those discussed above there is nothing.

PHYSICAL EXAMINATION: This is an adult male who appears to be approximately 40 years old. He is looking quite comfortable and the skin and eyes appear to be in good condition.

HEART: Heart rate is 80 BPM. No murmurs, rubs or gallops.

LUNGS: Clear to auscultation.

HEART: Regular rhythm, S1 and S2 heard without any S3, S4, or gallop rhythm noted.

ABDOMEN: Soft and non-tender.

EXTREMITIES: No palpable pulses. No edema. No peripheral neuropathy or lymphedema.

No edema and no evidence of peripheral neuropathy or lymphedema. There is no palpable pulse distal to the mid-thighs. The patient is able to walk without difficulty and without pain. This is an unusual finding. The patient has had no pain in his left arm or shoulder.

PHYSICIAN ED NOTE

Medical Record No.: 137370

Holmes, William Wm, Sr 9503300030 229

PHYSICIAN ED NOTE

PAGE 1 OF 1

LABORATORY DATA: Urine analysis shows 5,000,000 white blood cells/mm³, protein 40 mg%, creatinine 1.07 mg%, bilirubin 1.0 mg%, glucose 60 mg%, TIBC 210 mg%, total protein 7.0 g%, albumin 4.5 g%, cholesterol 200 mg%, triglycerides 140 mg%, BUN 14 mg%. Gastroesophageal reflux is documented, CK 150, LDH 440, AST 713.

DIAGNOSES:

1. Evaluation of elderly patient.
2. Acute bronchitis.
3. Influenza-like syndrome.
4. Hypertension.

PLAN: On the emerage, morphine IV was started. The patient had no respiratory distress at the time followed by 100% oxygen by nasal cannula. He was admitted to a nursing unit and S-macrogard 2000 ml was given. He also received an inspiratory O2 via mask. The patient remained cool regular throughout IV. Oral aspirin was discontinued and the case discharged. This patient will be admitted to Carter Hospital for further evaluation and care under his direction.

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CONTINUATION OF SEARCHED, INDEXED, FILED

The continuations of the previous search and index entries are as follows. The continuations are as follows.

EXPLANATION:

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Type	Document Number	Description
1	1	SEARCHED, INDEXED, SERIALIZED, FILED, PREPARED, DRAFTED